

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**Wischermann Partners, Inc., Wischermann
Hospitality Employer LLC,**

Plaintiffs/Counter-Defendant,

v.

Nashville Hospitality Capital LLC,

Defendant/Counter-Plaintiff,

v.

Paul Wischermann,

Defendant.

Civil Action No.: 3:17-cv-00849

**District Judge William L. Campbell, Jr.
Magistrate Judge Barbara D. Holmes**

**NASHVILLE HOSPITALITY CAPITAL LLC’S
MOTION FOR LEAVE TO FILE UNDER SEAL**

Defendant/Counter-Plaintiff Nashville Hospitality Capital LLC (“NHC”), by and through counsel, respectfully moves this Court to enter an Order permitting NHC to file under seal certain materials cited in NHC’s Opposition to Plaintiff/Counter-Defendant’s Motion for Partial Summary Judgment (the “Opposition”). As grounds for this Motion, and pursuant to the Court’s Stipulated Protective Order (Dkt. 40) (the “Protective Order”), the materials set forth below and attached to the Opposition contain Confidential Information as set forth in the Protective Order.

EXHIBITS TO BE FILED UNDER SEAL¹

In support of its Opposition, NHC is relying upon documents produced by third parties that contain private, sensitive, and confidential information within the meaning of Federal Rule of Civil Procedure 26(c), including information relating to NHC's operations, confidential processes, technical information, and non-public information of commercial value, which would be of value to a competitor or potential competitor if disclosed. As set forth in the Declaration of Kevin Fee (Managing Member of NHC), which is attached hereto as **Exhibit A**, the public disclosure of these internal, confidential documents could harm NHC. (Dec. of K. Fee ¶ 6.)

The following documents contain, disclose or relate to Confidential Information, as defined by the Protective Order, including "confidential processes, operations, technical information, sales, financial, financing, strategic planning, other proprietary, secret or sensitive data or information of commercial value" of NHC or constitute, disclose, or relate to materials that are "non-public and/or would be of value to a competitor or potential competitor or a party or its affiliates." (Protective Order ¶ 2, Dkt. 40; Dec. of K. Fee ¶ 5.) Pursuant to paragraphs 6 and 7 of the Protective Order, NHC has designated these documents "CONFIDENTIAL" and is seeking an order protecting them from public disclosure because they contain Confidential Information as described below:

¹ In its Opposition, NHC is relying upon the following documents that were designated as Confidential pursuant to the Protective Order by Plaintiff/Counter-Defendant Wischermann Partners Inc. ("Wischermann Partners") and/or Defendant Paul Wischermann (collectively, "Wischermann") when they were produced to NHC in discovery:

- WPI2 32699 (Ex. B-13)
- WPI2 38405 (Ex. B-14)
- WPI2 130018 (Ex. B-18)
- WPI2 130031 (Ex. B-19)
- WPI2 130097 (Ex. B-20)
- WPI2 132735 (Ex. B-21)
- WPI2 134040 (Ex. B-22)
- WPI2 130237 (Ex. B-24)

Though NHC did not designate these documents as Confidential, pursuant to the Protective Order, as the Receiving Party, NHC is filing these exhibits under seal. To the extent Wischermann seeks to prevent the public disclosure of these documents, Wischermann must comply with the requirements of paragraphs 16 and 17 of the Protective Order in order for the documents to remain sealed. (Protective Order ¶¶ 16-17, Dkt. 40.)

Exhibit No.	Bates Number	Document Description	Nature of Confidentiality
Ex. B-27	AIC000086	04.04.2016 Email from S. O’Laughlin to D. Gore et al. regarding “TJN – Initial ID Presentation”	Document contains internal, technical, private information of commercial value regarding the Westin, including room specifications, safety information, and floorplans.
Ex. B-28	AIC000029	10.02.2015 Email from S. O’Laughlin to S. Luckino, et al. regarding “WE Nashville”	Document contains internal, technical, confidential information of commercial value, including architectural plans, designs, and floor plans for the Westin.
Ex. B-30	INC015965	04.16.2016 Email from T. Gruenhagen regarding TJN (VRF system pricing)	Document attachment contains internal, technical, confidential information of commercial value regarding the Westin, including a detailed floorplan and information regarding guest rooms.

CONCLUSION

Based upon the Court’s Protective Order and the parties’ designations of these materials, NHC respectfully moves the Court for permission to file the above-designated materials, as cited in NHC’s Opposition to Plaintiff/Counter-Defendant’s Motion for Partial Summary Judgment, under seal.

DATED this 14th day of September, 2018.

Respectfully submitted,

/s/Overton Thompson III

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September 2018, I electronically filed the following document with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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